

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL  
DISTRICT AND SUPERINTENDENT DR.  
RICHARD MILLER.

OAH CASE NO. 2013041078

ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO  
DISMISS

On April 26, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Due Process hearing Request naming the Riverside Unified School District (District) and its superintendent, Dr. Richard Miller (Dr. Miller), as respondents. Student raises several issues against the District alleging that it had failed to provide Student with a free appropriate public education (FAPE). Student's complaint contains resolutions as to the District, only. As to Dr. Miller, the sole factual allegation is that Student's advocate, Steven Figueroa, sent Dr. Miller a letter requesting his personal intervention in the dispute between Student and the District.

On June 13, 2013, the Respondents filed a motion to dismiss Dr. Miller as a party. Respondents also seek the dismissal of all issues alleged that are beyond the jurisdiction of OAH. Student did not file an opposition to Respondents' motion.

Respondent's motion to dismiss all issues alleged beyond the jurisdiction is moot as OAH, by the undersigned ALJ, has already dismissed all such issues on his own motion in the Order following the Prehearing Conference of June 10, 2013.

APPLICABLE LAW AND DISCUSSION

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc....), special education law does not provide for a summary judgment procedure. Here, the sole issue is whether District's superintendent is a proper party, a matter easily proven without a formal summary judgment procedure.

In general, IDEA due process hearing procedures extend to "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local

plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.) Here Dr. Miller is not a public agency responsible for providing FAPE to Student. Thus, any claim Student may have against Dr. Miller is beyond the jurisdiction of OAH.

Nothing in Education Code sections 56195 and 56195.1 renders an individual individually responsible to provide a FAPE to, or make education decisions about, a particular student.

#### ORDER

1. Respondents’ motion to dismiss Dr. Miller is granted. Dr. Miller is dismissed as a party. This case shall proceed solely as to the Riverside Unified School District.

2. Respondents’ motion to dismiss issues alleged outside of OAH jurisdiction is denied as moot.

Dated: June 19, 2013

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings